

SUPREME COURT OF ARKANSAS

No. CR06-1197

KITAKA LAUDERDALE,

APPELLANT,

VS.

STATE OF ARKANSAS,

APPELLEE,

Opinion Delivered 11-9-06

MOTION FOR RULE ON CLERK

REMANDED.

PER CURIAM

Appellant Kitaka Lauderdale filed a motion for rule on clerk to file his record and have his appeal docketed. The clerk refused to docket the appeal based on a failure to comply with Arkansas Rule of Appellant Procedure – Civil 5(b).

Arkansas Rules of Appellate Procedure – Civil 5(b)(1)(C) states:

(b) *Extension of time.*

(1) If any party has designated stenographically reported material for inclusion in the record on appeal, the circuit court, by order entered before expiration of the period . . . *may extend the time for filing the record only if it makes the following findings:*

(C) All parties have had the opportunity to be heard on the motion, either at a hearing or by responding in writing[.] (Emphasis added.)

This court has made it very clear that we expect strict compliance with the requirements of Rule 5(b), and that we do not view the granting of an extension as a mere formality. *See, e.g., McCrackin v. State*, ____ Ark. ____, ____ S.W.3d ____ (Sept. 28, 2006); *Petrus v. State*, ____ Ark. ____, ____ S.W.3d ____ (Sept. 29, 2005). The order of

extension filed by the circuit court makes no reference to the findings of the court required under Rule 5(b)(1)(C), and, accordingly, we remand this matter to the circuit court for compliance with the rule.

Remanded.